

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventor:	Yves AUDEBERT et al.	Art Unit 3696
Appln. No.:	09/996,576	Exr. C. Graham
Filed:	November 30, 2001	Conf. No. 3802
For:	FINANCIAL RISK MANAGEMENT SYSTEM AND METHOD	

SUBMISSION UNDER 37 CFR § 1.116 ACCOMPANYING  
REQUEST FOR CONTINUED EXAMINATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated November 12, 2008, the Applicants hereby petition for a three-month extension of time and respectfully request reconsideration and allowance of this application in light of the following remarks.

Claims 1 and 26 stand rejected, under 35 USC § 101, as being directed toward non-statutory subject matter. Claims 1, 4-23, and 25-43 stand rejected, under 35 USC §103(a), as being unpatentable over Freeny Jr. (US 6,970,850) in view of Tsiounis et al. (US 2001/0039535). The Applicants respectfully traverse these rejections basedon the points set forth below.

With regard to the 35 USC 101 rejections, the Final Rejection proposes that claims 1 and 26 are non-statutory subject matter because they do not produce a useful, concrete, and tangible result (see Final Rejection section 1, last sentence). As stated by the Federal Circuit, the

consideration of whether a claim produces a useful, concrete, and tangible result is not a valid basis for determining whether the claim recites statutory subject matter (see *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008)). Instead, a claim defines statutory subject matter if it is tied to a particular machine (see *In re Bilski*).

Claim 1 recites a risk management system having a server, a client, and a point of sale terminal that perform specific operations and interactions. Thus, the subject matter of claim 1 is tied to a particular machine and, as a result, defines statutory subject matter under 35 USC 101.

Claim 26 similarly recites a server, a client, and a point of sale terminal that perform specific operations and interactions and similarly defines statutory subject matter.

In view of the foregoing, withdrawal of the 35 USC 101 rejections is considered to be warranted.

With regard to the 35 USC 103 rejections, the Final Rejection acknowledges that Freeny fails to disclose the Applicants' claimed subject matter of sending an authorization request to a customer if a characteristic of a financial transaction exceeds a customer preference (see Final Rejection page 3, second paragraph).

In an attempt to overcome this deficiency, the Final Rejection proposes that Tsiounis discloses a PT server: (1) that obtains and verifies a customer's payment information and transaction information, (2) transmits the payment information to a transaction processor, and (3) receives payment authorization for the transaction from the transaction processor or indirectly from a financial institution (see Final Rejection page 3, third paragraph).

However, the Applicants note that Tsiounis' disclosure of a server that sends a payment authorization request to a transaction processor is not the same as, or similar to, the claimed

subject matter of sending an authorization request to a customer. The Applicants respectfully submit that Tsiounis does not disclose the claimed subject matter of sending an authorization request to a customer if a characteristic of a financial transaction exceeds a customer preference and the Final Rejection does not provide findings of fact to the contrary.

Accordingly, the Applicants submit that the teachings of Freeny and Tsiounis, considered individually or in combination, do not render obvious the subject matter defined by claim 1. Independent claim 26 similarly recites the above-mentioned subject matter distinguishing apparatus claim 1 from the applied references, but with respect to a method.

Therefore, allowance of claims 1 and 26 and all claims dependent therefrom is considered to be warranted.

The Applicants note that the Final Rejection proposes that a skilled artisan would find motivation to combine the teachings of Freeny and Tsiounis so as to obtain isolated image processing by a plurality of servers and, thereby, improve the speed of image processing (see Final Rejection page 4, first paragraph).

The Applicants submit, however, that their claimed subject matter has nothing to do with image processing and, thus, the proposed motivation for combining the teachings of Freeny and Tsiounis is clearly irrelevant and thus insufficient to support the 35 USC 103 combination of references.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: May 12, 2009  
JEL/DWW/att

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